

MISSOURI COURT OF APPEALS EASTERN DISTRICT
OPINION SUMMARY

DIVISION THREE

JEAN URBACH, Individually and as)	No. ED104393
Representative of the Estate and Surviving)	
Heirs of Keith Urbach, Deceased,)	
)	
Plaintiff/Respondent,)	Appeal from the Circuit Court of
)	the City of St. Louis
vs.)	
)	
THE OKONITE COMPANY,)	Hon. Steven Ohmer
)	
Defendant/Appellant.)	FILED: March 28, 2017

Defendant Okonite Company Inc. appeals the following rulings of the trial court: (1) denial of Okonite's motions to strike regarding the testimony of Strenger and Kepler; (2) denial of Okonite's Motions for Directed Verdict and Motion for Judgment Notwithstanding the Verdict; (3) entering a judgment that did not reduce the judgment in accordance with the damages cap under Wisconsin law; and (4) denial of Okonite's motion requesting an order holding Plaintiff could not collect her judgment until she assigned to Okonite all future rights or claims she had or may have for a personal injury claim against an asbestos bankruptcy trust.

AFFIRMED

DIVISION THREE HOLDS: (1) The trial court properly denied Okonite's motions to strike the testimony of Strenger and Kepler because the trial court has substantial discretion in ruling on the admissibility of evidence, and Strenger and Kepler's testimony consisted almost entirely of their personal experience performing work as electricians at the same job sites as Keith Urbach; (2) The trial court properly held that Plaintiff presented sufficient evidence of causation under Wisconsin law to submit the matter to a jury; (3) The trial court properly applied the Wisconsin wrongful death damages cap when it first apportioned fault, then determined whether the cap applied; and (4) The Wisconsin statute requiring a plaintiff to assign to a defendant all future rights or claims she may have for a personal injury claim against an asbestos bankruptcy trust before collecting any amount of a judgment is procedural, not substantive, in nature; therefore, the trial court properly denied Okonite's motion because such an assignment is not required under Missouri procedural law.

Opinion by: Lisa S. Van Amburg, Judge
Angela T. Quigless, P.J., and Robert G. Dowd, Jr., J. concur.

Attorneys for Appellant: Timothy L. Krippner
William R. Irwin

Attorneys for Respondents: Randy L. Gori
Barry Julian

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT.
IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND
SHOULD NOT BE QUOTED OR CITED.**